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FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

AUG 18 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of ) CC Docket No. 95-116  
 )  
Telephone Number Portability ) RM 8535

**SUPPORTING COMMENTS**  
**of the**  
**ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT**  
**OF SMALL TELECOMMUNICATIONS COMPANIES (OPASTCO)**  
**to**  
**PETITIONS FOR RECONSIDERATION**

**I. INTRODUCTION AND SUMMARY**

1. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby supports three requests filed in Petitions for Reconsideration or Clarification of the Commission's *Third Report and Order* (Order) in the above-captioned proceeding. OPASTCO is a national trade association representing over 500 small independently owned telephone companies serving rural areas. Its members, which include both commercial companies and cooperatives, together serve over two million customers. The vast majority of OPASTCO member companies serve regions outside of the top 100 Metropolitan Statistical Areas (MSAs).

2. OPASTCO supports the Petitions for Reconsideration or Clarification filed by the National Exchange Carrier Association (NECA), the United States Telephone

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Association (USTA) and the National Telephone Cooperative Association (NTCA).<sup>1</sup> OPASTCO shares the concerns expressed by the above associations that the Commission's Order does not provide for the recovery of the costs local number portability (LNP) will impose on those small ILECs which do not have switches capable of performing LNP functions. The Order also does not resolve how ILECs outside of the top 100 MSAs will recover the costs of payments to regional LNP administrators, although this question was the topic of a previous joint filing by OPASTCO and USTA.<sup>2</sup>

## **II. ILECS WITHOUT LNP-CAPABLE SWITCHES MUST BE ABLE TO RECOVER ALL LNP-RELATED COSTS**

3. The Commission correctly ruled in this proceeding's *First Report and Order* that ILECs outside of the top 100 MSAs need not provide LNP until six months after receipt of a bona fide request from another carrier.<sup>3</sup> The *Third Order* states that "recovery from end users should be designed so that end users generally receive the charges only when and where they are reasonably able to begin receiving the direct benefits of long-term number portability."<sup>4</sup> However, ILECs that do not have LNP capability still must be subject to usage-based query charges.

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<sup>1</sup> Petition for Reconsideration and Clarification, National Telephone Cooperative Association, CC Docket No. 95-116, RM 8535 (Filed July 29, 1998); Petition for Clarification and/or Reconsideration, United States Telephone Association, CC Docket No. 95-116, RM 8535 (Filed July 29, 1998); Expedited Petition for Reconsideration, National Exchange Carrier Association, CC Docket No. 95-116, RM 8535 (Filed July 29, 1998).

<sup>2</sup> Petition for Reconsideration of the Organization for the Promotion and Advancement of Small Telecommunications Companies and the United States Telephone Association, CC Docket No. 95-116, RM 8535 (Filed October 17, 1997) (OPASTCO/USTA Petition).

<sup>3</sup> *First Report and Order and Further Notice of Proposed Rulemaking* at 82.

<sup>4</sup> *Order* at 142.

4. These charges may result in substantial costs for small ROR ILECs. Switches capable of LNP functions exceed both the needs and the means of many small ILECs. The Commission has prevented end-users without access to LNP switches from paying LNP-related charges. However, the *Order* does not provide a method for ILECs without LNP capabilities to recover the costs of LNP queries performed by other entities.<sup>5</sup> This is especially inequitable for those rural areas where widespread competition is slower to develop. Urban users are far more likely than their rural counterparts to see the near-term benefits of number portability, yet rural carriers without LNP capabilities must support LNP costs under current rules. OPASTCO urges the Commission to correct this apparent oversight, and so supports the requests of petitioners<sup>6</sup> for reconsideration or clarification which will rectify the current lack of an LNP recovery mechanism for small carriers.

### **III. ILECS MUST BE ABLE TO RECOVER THE COSTS OF CONTRIBUTIONS TO REGIONAL LOCAL NUMBER PORTABILITY ADMINISTRATORS**

5. The *Third Report and Order* did not address the issue of recovering ILECs' costs of contributions to regional LNP administrators. As noted by USTA,<sup>7</sup> OPASTCO and USTA filed a joint Petition for Reconsideration to the *Second Report and Order* in the above-captioned proceeding on October 17, 1997, which requested a mechanism which would allow carriers to recover such costs.<sup>8</sup> OPASTCO agrees with USTA's assertion that recovery of regional LNP administrator costs should not be limited to

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<sup>5</sup> NECA, pp. 3-4.

<sup>6</sup> *Ibid.*, p. 5; USTA, p. 5; NTCA, p. 6.

<sup>7</sup> USTA, p. 6.

<sup>8</sup> OPASTCO/USTA Petition, p. 6.

certain carriers. All ILECs participating in the regional LLCs should be able to recover the costs associated with LNP administration.

#### IV. CONCLUSION

6. The implementation of number portability will be a complex and costly process. The Commission has already recognized that companies serving areas outside of the 100 largest MSAs, especially small carriers, face different operating conditions than large companies. The Commission has correctly devised different LNP implementation rules for less-populated areas. However, its rules for cost recovery do not recognize these distinctions. Failure to provide clear LNP cost recovery mechanisms for small companies would not be consistent with either the terms of the 1996 Act or Commission policy. Subsequently, OPASTCO supports the petitions for Reconsideration or Clarification as outlined above.

Respectfully submitted,

ORGANIZATION FOR THE PROMOTION AND  
ADVANCEMENT OF SMALL  
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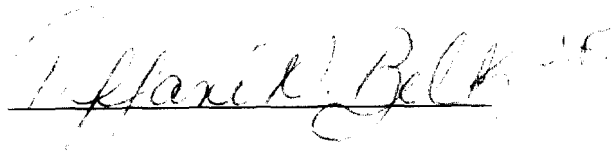
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August 18, 1998

# CERTIFICATE OF SERVICE

I, Tiffani N. Belk, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent on this, the 18th day of August, 1998 by first class United States mail, postage prepaid, to those listed on the attached sheet.

A handwritten signature in cursive script, reading "Tiffani N. Belk", is written over a horizontal line.

Tiffani N. Belk

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